

**STATE OF TENNESSEE**

OFFICE OF THE  
**ATTORNEY GENERAL**  
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April 8, 2004

Opinion No. 04-061

Rejection of House Bill 2651

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**QUESTION**

What are the ramifications under Article II, Section 19 of the Constitution of Tennessee if the motion to reject House Bill 2651 receives a constitutional majority?

**OPINION**

Passage of the motion to reject House Bill 2651 by a constitutional majority means that a bill containing the same substance cannot be passed during the regular session of the 103rd General Assembly.

**ANALYSIS**

During House Floor session of April 7, 2004 House Bill 2651 came before the House for consideration. Amendment No. 1 was adopted. On the motion to pass the bill on third and final consideration as amended the Bill received a constitutional majority in the negative. A motion to reject was made and seconded. Under the House rules that motion will lie over and be at the heel of the April 8, 2004 calendar.

Article II Section 19 of the Tennessee Constitution provides the following: "After a Bill has been rejected, no Bill containing the same substance shall be passed into law during the same session." Under House Rule 63 passage of the motion to reject House Bill 2651 means that "no bill containing the same substance shall be passed into a law during this General Assembly." This Office has previously observed that as used in Article II, Section 19,

"Substance," in the context of Article II, Section 19, refers to the essence of the bill. *See* Black's Law Dictionary 1280 (5th ed. 1979). It is "the material or essential part of a thing." *State v. Burgdoerfer*, 107 Mo. 1, 17 S.W. 646 (1891). The caption of a bill serves as an indicator of its substance, see *Op. Tenn. Att'y. Gen. 81-225* (April 7, 1981); however, "substance" is not merely the subject of the bill, "but an intelligible abstract or synopsis of its material and substantial elements, though the 'substance' may be stated without recital of any details." *State v. Brooks*, 241 Ala. 55, 1 So.2d 370, 371 (1941).

*Op. Tenn. Att'y Gen. 00-010* (January 19, 2000).

In Op. Tenn. Att'y Gen. 92-022 (March 4, 1992), this Office observed:

Article II, Section 19 represents the placing of a parliamentary rule in a constitution. While the Tennessee Supreme Court is, of course, the final interpreter of the Constitution, the Legislature's view of the Constitution is given careful consideration. *LaFever v. Ware*, 211 Tenn. 393, 65 S.W.2d 44 (1963). This is especially so where the matter involved is basically a parliamentary rule. Thus, while the Legislature's view is not controlling, this Office believes that a court would give due deference to a legislative determination that one bill did not contain the same substance as a previously rejected one.

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Requested by:

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